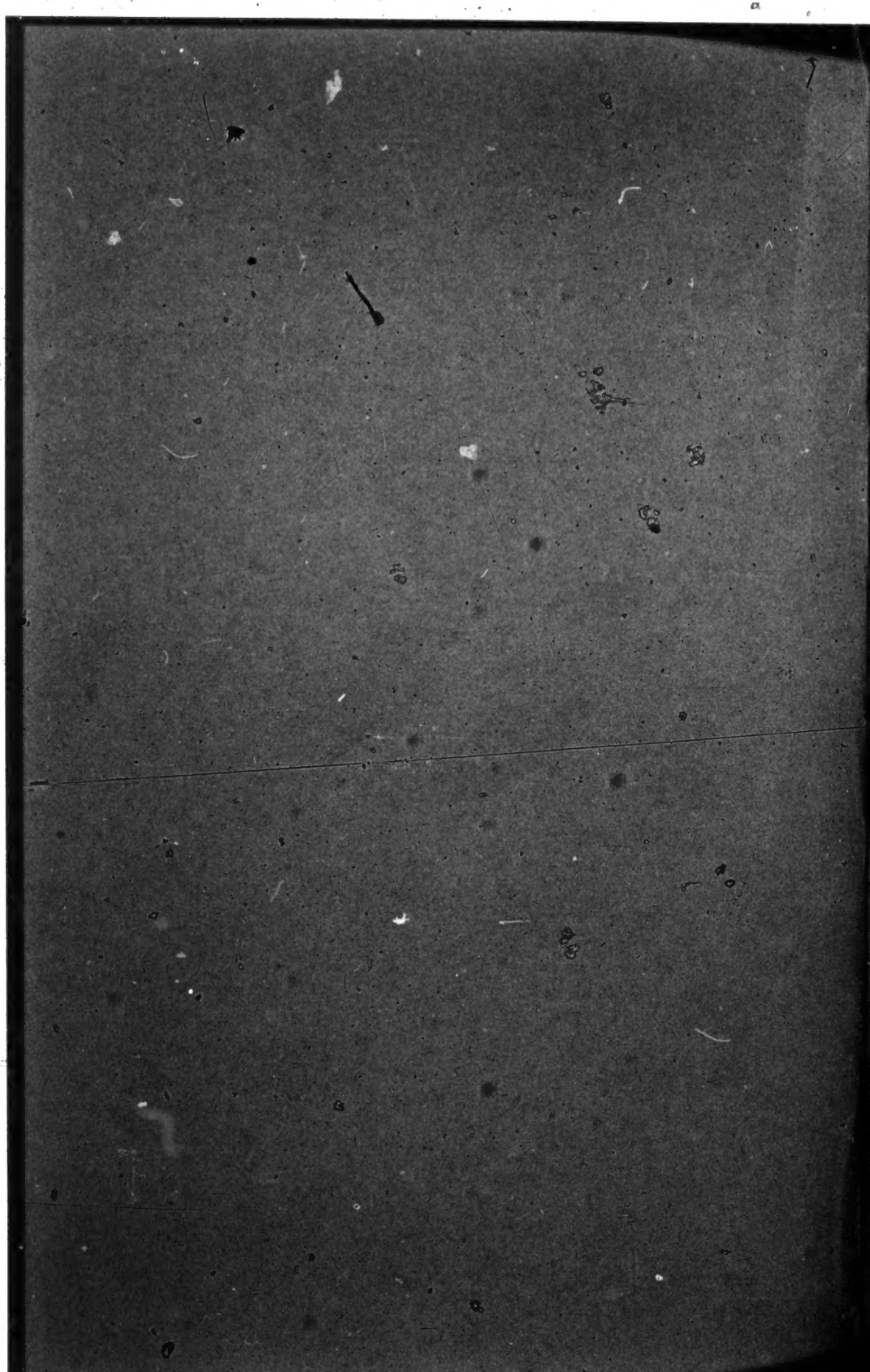

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1930

No. 630

DEFOREST RADIO COMPANY,
Petitioner

v.

GENERAL ELECTRIC COMPANY,
Respondent

MOTION AND BRIEF AS *AMICI CURIAE*

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Radiological Society of North America
Radiological Research Institute, Inc.
Federal Telegraph Company

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(A) The definition lacks invention over the prior art acknowledged in the patent 12

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Motion for Leave to File Brief as *Amici Curiae.*

May it Please the Court:

The undersigned as counsel for The Chemical Foundation, Inc., Radiological Society of North America, Radiological Research Institute, Inc., and Federal Telegraph Company respectfully move this Court for leave to file the accompanying brief as *amici curiae.*

JOHN F. NEARY,
RAMSAY HOGUET,
MARTIN T. FISHER,
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IN THE

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No. 630.

DEFOREST RADIO COMPANY,
Petitioner,

v.

GENERAL ELECTRIC COMPANY,
Respondent.

BRIEF OF *AMICI CURIAE.*

Introductory Statement.

Counsel appearing herein as *amici curiae* file this brief on behalf of The Chemical Foundation, Inc., a corporation of the State of Delaware; Radiological Society of North America, a corporation of the State of Illinois; Radiological Research Institute, Inc., a corporation of the State of Delaware, and the Federal Telegraph Company, a corporation of the State of California.

Each of these corporations has a grave responsibility to the public, which responsibility will be seriously affected if the decree of the Court below is permitted to stand.

The Chemical Foundation, Inc., is a non-profit-making holder of patents formerly under alien enemy ownership, which issues licenses to all responsible American manufacturers, at a reasonable royalty; all earnings in excess

of the necessary expenses of administration being devoted to research and other works of public benefit. It is the owner of patents issued to J. E. Lilienfeld, No. 1,122,011, dated December 22, 1914, and No. 1,218,423, dated March 6, 1917. These patents cover X-ray tubes and processes for producing X-rays of predetermined hardness. The degree of vacuum shown in the Lilienfeld patents is the same as that claimed in the Langmuir patent in suit No. 1,558,436. The effective date of the earliest Lilienfeld patent No. 1,122,011 (October 12, 1911) is prior to the claimed date of conception (August, 1912) of the Langmuir patent in suit.

J. E. Lilienfeld, the patentee named in the above-mentioned patents, is the same Lilienfeld referred to in the opinion of the District Court, adopted as the opinion of the Court of Appeals for the Third Circuit on the first hearing of this case, and in the dissenting opinion of Judge WOOLLEY, upon the re-hearing, as a prominent worker in the art, who had produced a non-gaseous, high vacuum tube prior to Langmuir. He is the author of the 1910 paper frequently referred to in the record, briefs and opinions (Deft's. Ex. 25, Rec., Vol. V, p. 315).

The Chemical Foundation, Inc., is, by its charter and the circumstances of its creation, with which this Court is familiar (*United States* v. *Chemical Foundation*, 272 U. S. 1), operated in the interests of the public. To the extent that this corporation owns patent rights that are or may be claimed to be within the monopoly of the Langmuir patent, it is affected by the decision in the instant case.

As the owner of the Lilienfeld patents on X-ray tubes and process, it is desirous of licensing the public in accordance with its non-profit-making program of operation.